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C O N F I D E N T I A L SECTION 01 OF 02 BOGOTA 006718

SIPDIS

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TAGS: KJUS PHUM MOPS PGOV CO

SUBJECT: MILITARY JUSTICE REFORM FOCUSES ON SYSTEMIC FLAWS

REF: BOGOTA 6508

Classified By: Ambassador William B. Wood; reasons 1.4

(b) and (d)

Summary

¶1. (U) On July 11, the Ambassador hosted military justice Director Brigadier General Luis Fernando Puentes to discuss the military justice reform process and encourage transparency. Colombia's Military Penal Justice (MPJ) system has been accused of promoting impunity and responding slowly to criminal charges against officials. Puentes hopes to improve MPJ through a two-phase reform plan. Phase one would establish time limits on administrative processes to reduce the backlog of service misbehavior (victimless) cases. Phase two aims to return MPJ to an accusatorial procedure, create an investigative corps, and establish a defense corps. The Ambassador suggested that Puentes consider adding changes to create a transparent, reliable and equitable system in addition to the envisioned administrative changes. Incoming Minister of Defense Camilo Ospina is familiar with the project and should be able to advance the reform effort. Puentes requested U.S. assistance to overcome Polo Democratico opposition and to overcome anticipated pre-election distraction in the Congress towards the reform package. End Summary.

Reform Package Fixes

¶2. (SBU) Puentes' two-part reform package would (1) reduce case backlog by imposing time limits on service crimes; (2) establish an investigative corps to gather crime scene evidence; (3) create a defense corps like the Judge Advocate General system in the United States; and (4) return the MPJ procedures to an accusatorial system. According to Puentes, these fixes would improve the system by making it more efficient and compatible with the regular justice system. Each of the fixes would address critical problems that emerged from the 2000 reform process.

¶3. (C) Puentes noted that the new Defense Minister, Camilo Ospina, had already read the proposed reforms and made them a priority (ref A). The Ambassador agreed that Ospina would be an excellent champion because of his legal background and understanding of the legislative process. Per Puentes, the initial reform package was introduced in the Congress in April and has concluded one plenary debate. The second package of reforms will be introduced on July 20 when Congress returns from its month-long recess. Ospina directed Puentes to request funding for reform from the budget office (Hacienda), but Puentes believes the only expense would be from creating a defense corps.

Areas not Changed

¶4. (C) Puentes stressed that high-profile human rights cases linked to military officials, including the Cajamarca murders and Arauca trade unionist murders, were not being tried in the MPJ system. Military justice was prohibited from hearing human rights cases or cases involving criminal behavior unrelated to official duties, such cases were handled in civilian courts. The reforms would not change that. Nevertheless, Puentes acknowledged that the procedure of vying for jurisdiction on cases that could belong either to the military or ordinary justice systems delayed the court's decisions. The Ambassador underscored the importance of establishing a process that would reliably investigate and issue definitive verdicts on military officials involved in such cases. He added that transparency, fairness, timeliness, and equality were critical elements necessary for a meaningful reform. However, the proposed reform packet focused on streamlining existing institutions rather than establishing a more transparent and responsive system.

¶5. (C) The Ambassador asked to be kept informed of reform progress and suggested that Puentes consider the "big picture" including planning a budget and institutional goals to guide MPJ reform. He further recommended that military justice begin to produce regular demonstrations of its improvements such as timely case resolutions, or reform

advances. Puentes responded that the Iscuande trial, involving two hometown marines and one enlisted man accused of infiltrating the Navy to pass the FARC information to attack the base, was slated to conclude within the next month and could be a success story. The case preparation and trial lasted five months and will result in 14 enlisted and several officers retiring from the military.

Critics Balk

16. (C) Polo Democratico politicians have been the most critical of reforms, according to Puentes. He singled out Representative Luis Antonio Serano for criticizing the initial reform package twice without having read the document. Although there are 17 reservists serving in Colombian Congress whom Puentes considers sympathetic to MPJ reforms, he requested U.S. backing to overcome those that could attempt to delay reform for years or shelve them without debate. He added that Congress would have to be encouraged to continue debate since members will likely be consumed with pre-election campaigning. Puentes had no further information on potential reform opponents.

WOOD